

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
July 13, 2004

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:00 p.m., Tuesday, July 13, 2004, in the Board Room, York Hall, by Chairman Thomas G. Shepperd, Jr.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Kenneth L. Bowman, James S. Burgett, and Thomas G. Shepperd, Jr.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and James E. Barnett, County Attorney.

Invocation. Pastor M. A. Truckenmiller from Breakthrough Worship Center gave the Invocation.

Pledge of Allegiance to the Flag of the United States of America. Mr. Bowman led the Pledge of Allegiance.

HIGHWAY MATTERS

Mr. Steven Hicks, Resident Engineer, Virginia Department of Transportation (VDOT), appeared before the Board to discuss highway matters of interest to the Board of Supervisors. He stated he had no new matters to discuss and offered to answer any of the Board's questions.

Mr. Burgett requested that Vine Drive be repaved. He asked for the vacuum truck to clean out the culverts in the area of Pinehurst Drive since water continuously stands in that area.

Mr. Zarembo questioned the timeframe for widening Interstate 64 at Jefferson Avenue, going west toward Richmond.

Mr. Hicks reported that no funds were available at this time for construction on that section of the interstate.

Mrs. Noll noted that VDOT had come out with V-Trans 2025, the multi-modal, long-range transportation plan. She announced there would be local meetings held for the citizens' input, and she encouraged those interested to go to VDOT's website and plan to attend a meeting. She then thanked VDOT for the sidewalk under construction on Kiln Creek Parkway.

Mr. Bowman asked for an update on the priority list for drainage projects that Mr. Hicks provided the Board members some time back.

Mr. Hicks stated VDOT is making progress. The Department has hired eight new employees and obtained additional equipment to help with drainage problems.

Chairman Shepperd mentioned the reductions to the Secondary Road plan and how it would affect both ends of the Big Bethel Road intersections. He asked for the proposed dates scheduled.

Mr. Hicks stated the intersections are still on schedule with a proposed construction date of May 2005.

Chairman Shepperd reported on the drainage problems near Victory Boulevard and Calthrop Neck Road. He stated a complete ditch was not there, and the citizens on Yorktown Road have a lot of water flowing into their property. He mentioned a culvert that does not drain in the

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areas of Mansion and Cary's Chapel Roads. Chairman Shepperd then expressed the Board's appreciation for all of VDOT's hard work and efforts.

PRESENTATIONS

YORK COUNTY BOARDS AND COMMISSIONS

Chairman Shepperd introduced and welcomed Mr. John Staton as a newly appointed member to the York County Planning Commission, and presented him with a Boards and Commissions Handbook and a York County pin.

EMPLOYEE RECOGNITION PROGRAM

Chairman Shepperd congratulated Mr. Brian P. Fuller, Department of Community Services, and Mr. Carroll D. Seaborn, Department of Environmental and Development Services, for having attained 20 years of service with the County. He presented both Mr. Fuller and Mr. Seaborn with 20-year service pins and certificates.

CITIZENS COMMENT PERIOD

Mr. Joe Haggerty, 403 Timberline Loop, appeared before the Board to speak in support of the Grafton Drive-Burts Road connector. He encouraged the purchase of the adjacent property to build the extension.

Mrs. Edna Haggerty, 403 Timberline Loop, also encourage support of the Burts Road extension. She then spoke on topics of interest to the County's senior citizens, including a new pamphlet entitled "Senior Connections" recently put together by the County to disseminate important information geared towards seniors. She commended the County for this invaluable pamphlet.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. James Barnett reported that he was drafting an ordinance relating to the use of mopeds and motor scooters that he will present to the Board soon.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds introduced Melissa Dickens, the new Business Development Representative in the Office of Economic Development. He reminded the Board of its August 3 Regular Meeting, and a work session scheduled August 10 to discuss policy reviews and the Board's meeting format. He stated that August 17 is a regularly scheduled meeting, and indicated that he hopes to arrange the annual meeting on August 24 with the County's legislative delegation.

MATTERS PRESENTED BY THE BOARD

Mrs. Noll expressed appreciation for Mrs. Haggerty's positive feedback and recognition of staff's input for the "Senior Connections" publication. She also thanked the 4th of July Committee and its volunteers for the work at the July 4th celebration even though it ended early due to rain.

Mr. Bowman thanked those who worked on the York High School golden jubilee. He reported that over 2,000 people attended the function, and an endowment fund has been established to provide scholarships for students. He described his tour of some of the County offices and encouraged citizens to stop by the offices and ask questions. He stated the 4th of July Committee did a great job with the festivities on the 4th, and he encouraged volunteers to continue volunteering for County events.

Mr. Burgett stated he had received many complaints from his district regarding the Navy's airplanes flying overhead in the evenings. He asked for the Board's consensus in requesting that the Navy cease flying over homes during the evening hours. He then discussed the proper installation of privacy fences, noting that the finished side should be on the outside. He explained the Codes Compliance office stays busy telling citizens to turn fences around since permits are no longer required. He noted he would like to bring this back before the Board for its reconsideration in an effort to keep citizens from installing fences improperly. He stated he has also received complaints concerning motorized scooters on the roads and is looking forward to the ordinance being prepared by Mr. Barnett. He reported that the Gallery at York Hall has had 7,750 visitors this year, and will probably exceed the 14,000 visitors it had last year. He noted that 1,479 children have signed up for the summer program at the library. The Route 17 Revitalization Committee met with the salvage yard operators and will continue to meet individually to help clean up Route 17. He mentioned the abundant number of cars for sale along Route 17, and he discouraged citizens from placing cars for sale along the road. Mr. Burgett encouraged all residents to take pride in the community.

Mr. Zaremba announced that New Quarter Park would reopen on July 17. He encouraged citizens to get an update on the Yorktown waterfront by reading an article published in the Daily Press on July 10 that featured many positive comments. He reported that the Williamsburg Area Destination Marketing Committee met for the first time, and it expects that about \$3.5 million dollars will be generated from the additional \$2.00 per night transient occupancy tax. This committee is charged with ensuring that the money is spent the best possible way to increase tourism to the Historic Triangle. He stated a Marketing Task Force is being formed that will be made up of experts from the same organizations that will develop a budget concerning expenses, advertising, and marketing in the historic triangle.

Meeting Recessed. At 7:51 p.m. Chairman Shepperd declared a short recess.

Meeting Reconvened. At 8:04 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS

TAX EXEMPTION - MARKBANK RECREATION ASSOCIATION

Mr. Barnett gave a presentation on proposed Ordinance No. 04-15 to grant exemption from real and personal property taxation pursuant to Code of Virginia Section 58.1-3651 to Marlbank Recreation Association, Inc., a Virginia non-profit corporation. He explained that the recreation association property is actually not part of the subdivision's common area, and not owned by a homeowners' association.

Mr. Zaremba asked about distinctions between the recreation associations and homeowners associations.

Mr. Barnett offered an explanation of the differences in the two types of associations. He then explained the stipulations that passed with the land when given by the O'Hara's to Marlbank, which was to create a recreational facility that would be open to anyone living in Marlbank and the nearby neighbors who chose to join the association.

Discussion ensued over Marlbank and other recreational associations in the County.

Chairman Shepperd called to order a public hearing on application proposed Ordinance No. 04-15 which was duly advertised as required by law and is entitled:

AN ORDINANCE GRANTING EXEMPTION FROM REAL AND PERSONAL PROPERTY TAXATION PURSUANT TO CODE OF VIRGINIA SECTION 58.1-3651 TO MARLBANK RECREATION ASSOCIATION, INC., A VIRGINIA NON-PROFIT CORPORATION

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Dr. Tom Geary, 701 Wormley Creek Drive, president of the Marlbank Recreation Association, explained that the memberships were voluntary, and everyone was eligible to become a member, including those in neighboring communities. He described some of the activities hosted by the association, and he encouraged the Board to make the association tax exempt.

Mr. Burgett inquired about the possibility of the land being sold.

Dr. Geary stated there is no way the land can be sold.

Mr. Tom Pennington, 108 Dogwood Court, spoke in favor of this exemption and explained if the association deviated from being a recreation association or sold any of the property, it would immediately close the association under the original covenants of the Deed of Gift from the O'Hara's. He stated the association is trying to stave off its dissolution by asking the Board to help reduce the assessment on their membership. He encouraged the Board to vote to make the association tax exempt.

Mr. Joseph Taylor, 109 Marlbank Drive, explained the types of memberships available through the recreation association. He spoke on the dues and the recent increases to keep the budget balanced. He stated that after the increase in taxes, the association is not able to handle costs. Mr. Taylor asked the Board for its favorable consideration of the request for tax exemption.

Ms. Ashley Kelly, 203 Marl Ravine Road, appeared to represent the mothers of the children in the neighborhood and stated the importance of the association. She described the association's activities, and she asked the Board to grant it the tax-exempt status.

Ms. Alice Pennington, 108 Dogwood Court, past membership chairperson of the Marlbank Recreation Association, stated there are approximately 80 associate members with many of those members being public servants such as teachers and firefighters. She spoke of the burden it would be for young families or for a retired family to raise the rates, and she encouraged the Board to approve the exemption.

Mr. Todd McClay, 303 Yorkview Drive, spoke of the expensive \$240,000 upgrade of the pool and the association's membership. He expressed his hope that the Board would grant the association this exemption.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Shepperd closed the public hearing.

Mr. Zaremba reiterated the positive services the organization provides for the common good of the public and stated he would vote in favor of the ordinance.

Chairman Shepperd also emphasized the common good that these types of organizations provide to the community.

Mr. Burgett then moved the adoption of proposed Ordinance 04-15 which reads:

AN ORDINANCE GRANTING EXEMPTION FROM REAL AND PERSONAL PROPERTY TAXATION PURSUANT TO CODE OF VIRGINIA SECTION 58.1-3651 TO MARLBANK RECREATION ASSOCIATION, INC., A VIRGINIA NON-PROFIT CORPORATION

WHEREAS, Marlbank Recreation Association has forwarded to the Board a request for real and personal property tax exemption; and

WHEREAS, §58.1-3651 of the Code of Virginia addresses such exemptions and requires that the local governing body advertise and conduct a public hearing and consider a series of questions prior to adopting an ordinance supporting the requested exemption; and

WHEREAS, the required public hearing has been advertised and conducted and the Board of Supervisors has duly examined and considered the questions contained in §58.1-3651(B) of the Code of Virginia;

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NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 13th day of July, 2004, that Marlbank Recreation Association shall be exempt from real and personal property taxation by designation effective January 1, 2004;

BE IT FURTHER ORDAINED that it is recommended that the property of the Marlbank Recreation Association be classified as property used for public park and playground activities in accordance with those tax exemption categories set out in Code of Virginia § 58.1-3651;

BE IT STILL FURTHER ORDAINED that continuance of the property tax exemption shall be contingent on the continued use of the properties for public park and playground activities in accordance with the purpose for which the exemption is granted;

BE IT STILL FURTHER ORDAINED that property taxes assessed to and paid by the Marlbank Recreation Association during 2004 the amount of \$3,191.12 be abated and refunded.

On roll call the vote was:

Yea:	(4)	Zaremba, Bowman, Burgett, Shepperd
Nay:	(1)	Noll

WATER AGREEMENT WITH NEWPORT NEWS

Mr. John Hudgins, Director of Environmental & Development Services, gave a presentation on proposed Resolution R04-97 to authorize negotiations and execution of a new water agreement with the City of Newport News and to transfer the County's water facilities to the City for operation and maintenance.

Mr. Zaremba questioned the reasons for the \$491,000 that the County is to pay Newport News used.

Mr. Hudgins explained the \$491,000 is a basic charge, with approximately 1,000 new customers for future water sourcing needs.

Discussion ensued over the proposed water agreement.

Chairman Shepperd called to order a public hearing on proposed Resolution R04-97 which was duly advertised as required by law and is entitled:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A MODIFIED WATER AGREEMENT WITH THE CITY OF NEWPORT NEWS THAT TRANSFERS THE COUNTY'S WATER WELLS, STORAGE AND DISTRIBUTION FACILITIES AND CERTAIN CUSTOMER SERVICE ACCOUNTS TO THE CITY IN EXCHANGE FOR THE EXTENSION OF RETAIL WATER SERVICE IN PARTS OF YORK COUNTY NOT PREVIOUSLY SERVICED BY THE CITY OF NEWPORT NEWS WATERWORKS DEPARTMENT

There being no one else present who wished to speak concerning the subject resolution, Chairman Shepperd closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R04-97 which reads:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A MODIFIED WATER AGREEMENT WITH THE CITY OF NEWPORT NEWS THAT TRANSFERS THE COUNTY'S WATER WELLS, STORAGE AND DISTRIBUTION FACILITIES AND CERTAIN CUSTOMER SERVICE ACCOUNTS TO THE CITY IN EXCHANGE FOR THE EXTENSION OF RETAIL WATER SERVICE IN PARTS OF YORK COUNTY NOT PREVIOUSLY SERVICED BY THE CITY OF NEWPORT NEWS WATERWORKS DEPARTMENT

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WHEREAS, the County of York and the City of Newport News executed a Water Agreement establishing this agreement in principal on January 3, 1996, amended it on May 20, 1998, and reaffirmed by the Board of Supervisors in 1999; and

WHEREAS, the City and the County wish to enter into a modified agreement to set forth the terms and conditions for continued and expanded water service to be provided in York County by the City; and

WHEREAS, the City is willing to agree to become responsible to provide future water service to the areas described in the agreement not currently served by City of Newport News, in exchange for the conveyance to the City of certain of the County's water supply assets, including four water wells and related water storage and distribution facilities; and

WHEREAS, pursuant to the proposed modified agreement the cost to extend future transmission lines will be borne by the City except that the County shall retain the right to negotiate or fund entirely an extension of water lines as is done now in the County's Utilities Capital Plan in other areas of the County; and

WHEREAS, the modified agreement provides that all York County residents who become customers of Newport News Waterworks will pay the same water rates and will be treated the same in all aspects as established by the City throughout Newport News Waterworks service area.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 13th day of July, 2004, that the Board authorizes the County Administrator to take all necessary actions to execute the modified agreement as described above with the City of Newport News, and as part of such agreement to transfer to the City the County's four water wells, associated storage tanks, pipelines and approximately 400 customer service accounts to the City as described in the proposed modified agreement; and

BE IT FURTHER RESOLVED that the County Administrator is directed to pay the City of Newport News the FY04 System Development Charge fee for all accounts to be transferred in the amount of \$491,223.

On roll call the vote was:

Yea: (5) Noll, Bowman, Burgett, Zaremba, Shepperd
Nay: (0)

AMENDMENT TO YORK COUNTY CODE: CHAPTER 7.1-BUILDING REGULATIONS.

Mr. Hudgins gave a presentation on proposed Ordinance No. 04-18 to amend the York County Code to increase building permit fees, incorporation of the new 2000 Uniform Statewide Building Code provisions, deleting the requirement for a local surety bond for contractors, imposing a surety requirement for the issuance of a temporary certificate of occupancy, requiring a surveyor's certification of final lot elevations and grades prior to the issuance of a certificate of occupancy, and providing a new provision for maintaining a clean building construction site.

Chairman Shepperd called to order a public hearing on proposed Ordinance 04-18 which was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND CHAPTER 7.1 OF THE CODE OF THE COUNTY OF YORK, VIRGINIA, BUILDING REGULATIONS, PERTAINING TO AN INCREASE IN PERMIT FEES, INCORPORATION OF THE NEW 2000 UNIFORM STATEWIDE BUILDING CODE (USBC) PROVISIONS, DELETING THE REQUIREMENT FOR A LOCAL SURETY BOND FOR CONTRACTORS, IMPOSING A SURETY REQUIREMENT FOR THE ISSUANCE OF A TEMPORARY CERTIFICATE OF OCCUPANCY, REQUIRING A SURVEYOR'S CERTIFICATION OF FINAL LOT ELEVATIONS AND GRADES PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY,

AND PROVIDING A NEW PROVISION FOR MAINTAINING A
CLEAN BUILDING CONSTRUCTION SITE

Mr. Robert Duckett, Director of Public Affairs for the Peninsula Housing and Builders Association, spoke on behalf of the association in support of this issue and its agreement to raise the building permit fees. He referred to the memorandum concerning the soils test, noting the association suggests that the proposed change in that paragraph would place an added cost on the builder for something that has not been proven to be a problem, and the association would not support the change at this time. He referred to considerations D and H in the memorandum concerning lot grading, and he expressed support of these changes with two language additions: page 11, section 7.1-9, paragraph B--suggest the line read "and the proposed finished grades consistent with the approved development plan"; on page 15, section 7.1-12, paragraph B--the last line would read "... grades are consistent with the approved development plan and with plat plan submitted with the building permit application."

Mr. Hudgins stated he felt the Housing Builders Association's recommendations for Sections 7.1-9 and 7.1-12 strengthened this amendment.

Mr. Burgett expressed his pleasure in the meeting of the minds on the issues of finished grade. He cited some examples of grading problems in nearby neighborhoods and mentioned there had been a few problems with builders not keeping their sites clean. He stated he felt they could be creating burdensome regulations in the soils test portion of the amendment because there has not been that much of a problem.

Mr. Hudgins reported that staff had discovered that soils test were not accurate, and he further explained that they were getting into areas of development in the County that have poor soil conditions.

Mrs. Noll suggested that the Board approve the proposed ordinance since it can be reconsidered at a later time once they hear from more builders. She stated she did not want the citizens to find out after the fact that they have problems with their houses.

Chairman Shepperd cited an incident in Smithfield as an example of a problem concerning a soils test that caused a big issue involving government litigation.

Discussion followed on the problems arising from poor soil conditions.

Mr. Hudgins stated the quality of the soil in the County has diminished to some degree. He explained that staff recognized areas in which the code had deficiencies, and they would like to instill a protective device to correct those areas.

Mr. Zaremba acknowledged that there are problems with the soils in the County and that the citizens are the ones who will be hurt by this problem. He suggested that the soils test is well worth the cost involved.

Mr. Bowman stated that in order to protect the citizens, he was in favor of the changes staff had proposed.

Mr. Zaremba offered suggestions concerning flood zones and flood insurance.

Chairman Shepperd stated staff had done a great job in preparing the ordinance, and he was impressed with the inclusion of the Peninsula Housing and Builders Association's suggestions.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Shepperd closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance 04-18(R) that reads:

AN ORDINANCE TO AMEND CHAPTER 7.1 OF THE CODE OF
THE COUNTY OF YORK, VIRGINIA, BUILDING REGULATIONS,
PERTAINING TO AN INCREASE IN PERMIT FEES, INCORPORATION
OF THE NEW 2000 UNIFORM STATEWIDE BUILDING

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CODE (USBC) PROVISIONS, DELETING THE REQUIREMENT FOR A LOCAL SURETY BOND FOR CONTRACTORS, IMPOSING A SURETY REQUIREMENT FOR THE ISSUANCE OF A TEMPORARY CERTIFICATE OF OCCUPANCY, REQUIRING A SURVEYOR'S CERTIFICATION OF FINAL LOT ELEVATIONS AND GRADES PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, AND PROVIDING A NEW PROVISION FOR MAINTAINING A CLEAN BUILDING CONSTRUCTION SITE

BE IT ORDAINED by the York County Board of Supervisors, this 13th day of July, 2004, that Chapter 7.1, Building Regulations, Code of the County of York be, and it is hereby, amended as follows:

ARTICLE I. IN GENERAL

Sec. 7.1-2. Conflicting requirements.

- (a) Wherever regulations contained in this chapter require or impose standards higher or more restrictive than those contained in any other statute or local ordinance or regulation, the provisions of this chapter shall govern.
- (b) Whenever the provisions of any other statute or local ordinance or regulation require or impose standards higher or more restrictive than those contained in this chapter, the provisions of such other statute or local ordinance or regulation shall govern.
- (c) Whenever two (2) or more of any of the provisions established by this chapter are found to be in conflict, the more restrictive provision shall govern.

Sec. 7.1-3. Adoption; amendments.

There is hereby adopted by reference in the county that certain code known as the Virginia Uniform Statewide Building Code (USBC) and all Virginia Administrative Amendments-Accumulative Supplements thereto in being as of August 15, 1974 or subsequently issued, and the whole thereof and the same is hereby incorporated herein as fully as if set out in length. Said code, as amended herein, shall control all matters set forth in section 7.1-1 above and all other functions which pertain to the installation of systems vital to all buildings and structures and their service equipment as defined by such code and shall apply to all existing and proposed structures in the county. Certain sections and subsections of the USBC are amended as follows:

- (a) INTERNATIONAL BUILDING CODE:
 - (1) Wherever the parenthetical phrases "name of municipality" or "name of jurisdiction" appear, the words "County of York" shall be substituted therefor.
 - (2) Wherever the parenthetical phrase "date of adoption of this code" appears, the word and numbers "August 15, 1974" shall be substituted therefor.
- (b) INTERNATIONAL PLUMBING CODE:
 - (1) Wherever the parenthetical phrase "date of adoption of this code" appears, the word and numbers "August 15, 1974" shall be substituted therefor.
 - (2) Wherever the parenthetical phrases "name of municipality" or "name of jurisdiction" appear, the words "County of York" shall be substituted therefor.
 - (3) Section 305.6.1 Depth of Sewer 4"

(c) INTERNATIONAL MECHANICAL CODE:

- (1) Whenever the parenthetical phrase "date of adoption of this code" appears, the word and numbers "August 15, 1974" shall be substituted therefor.
- (2) Whenever the parenthetical phrase "name of municipality" or "name of jurisdiction" appears, the words "County of York" shall be substituted therefor.

(d) NATIONAL ELECTRICAL CODE:

- (1) Wherever reference is made to governmental bodies or jurisdictions, the words "County of York" shall be deemed to apply.
- (2) Whenever the terms "authority having jurisdiction" or "competent authority" or terms similar in nature are used, they shall be deemed to mean the "building code official or a representative he/she may designate." Such representative shall normally be the electrical inspector.
- (3) INTERNATIONAL RESIDENTIAL CODE:
- (4) Table No. R-301.2 (1) in section R-301 of the subject code is amended by adding the following underlined words and numbers under each of the columnar headings as follows:

Roof snow load, pounds per square feet	<u>20</u>
Seismic condition by zone	<u>A</u>
Wind Speed	<u>100mph (3 second wind gust)</u>
Subject to damage from:	
Weathering	<u>Yes, Moderate</u>
Frost line depth	<u>Yes, 16 inches</u>
Termite	<u>Yes, Moderate to Heavy</u>
Decay	<u>Yes, Moderate to Severe</u>
Winter Design Temp	<u>Yes, 20</u>

It is mandatory that the codes referenced in subsections (a) through (e) above be compared with and updated by the Virginia Administrative Amendments Supplements prior to final interpretation of any of the provisions of those codes.

Sec. 7.1-4. International Property Maintenance Code.

- (a) There is hereby adopted and amended as part of this chapter the following sections and articles of the International Property Maintenance Code (IPMC), adopted reference in Part III of the USBC, "Maintenance of Existing Structures", and all Virginia Administrative Amendments-Accumulative Supplements thereto in being as of July 1, 1992, or subsequently issued: Section 40-3.3 ("Cooking Facilities") which shall apply to any rooming or dormitory unit; Chapter 6 in its entirety ("Mechanical and Electrical Requirements") which shall apply to all existing buildings, except single family residential private dwellings which are not rented, leased or let; and Chapter 7 in its entirety ("Fire Safety Requirements") which shall apply to all buildings except those in use group R-3 and R-5.
- (b) From and after the effective date of this chapter, the provisions of the "International Property Maintenance Code" adopted in subsection (a) above shall be enforced by the building code official and/or the fire code official when an unsafe condition is discovered by the building code official. The building code official and/or fire code official shall have authority to enforce those sections of the International Property Maintenance Code adopted above, with all those duties, powers, and immunities as specified in the Virginia

Uniform Statewide Building Code. Enforcement shall be in accordance with Article VI of this chapter.

- (c) The Board of Building Code Appeals is hereby designated as the appeals board to hear appeals arising from the application of the provisions of the International Property Maintenance Code adopted above.

ARTICLE II. PERMITS, FEES AND INSPECTIONS

Sec. 7.1-8. Types of permits and fees.

Permits, inspections and fees shall be required for all work as established by the Virginia Uniform Statewide Building Code. Permit applications shall be made in writing on such forms as are prescribed by the building code official. A permit shall be issued by the building code official before any of the work or actions noted in the following sections is commenced.

Nothing in this chapter shall be construed to prevent the owner of any single-family dwelling from performing additions, alterations or repairs to the dwelling in which he or she resides. Such owner shall obtain all required permits and shall make all required tests of the completed work before approval of the work is granted by an inspector. No such installation shall be put into service prior to final approval by such inspector.

It shall be unlawful for any owner, lessee, agent or any person having any authority or duty in connection with any building or premises knowingly to employ or hire any person to perform any electrical, plumbing or building-related mechanical work in or upon such building or premises unless such person is a certified master in the field in which the work is to be performed, or qualifies for an exemption from certification under the provisions of the Virginia Board for Contractors' Tradesman Certification Rules and Regulations. It shall also be unlawful for any contractor, firm or corporation to undertake or contract to perform any electrical, plumbing or building-related mechanical work in or upon any building or premises unless such contractor, firm or corporation is a state-registered contractor or is exempt from such registration by law, and such contractor, firm or corporation has in its employ a certified master in the field in which the work is to be performed or qualifies for an exemption from certification under the provisions of §54.1-1131 of the Code of Virginia.

- (a) *Building Permits.* A building permit shall be required for the following types and classes of activities. Electrical, plumbing, and mechanical work is not covered by a building permit and, if such work is to be performed, separate permits shall be obtained and the applicable fees shall be paid. No building permit shall be issued unless and until a certificate of zoning compliance, as required by this Code, has been obtained from the zoning administrator. Fees for building permits shall be as follows:

- (1) For new construction (including additions in all use groups).

Fee (Based on gross floor area, as defined in the International Building Code)

0—500 square feet	\$75.00
501—1000 square feet	95.00
1001—1500 square feet	155.00
1501—2000 square feet	225.00
2001—2500 square feet	265.00
2501—3000 square feet	315.00
3001—3500 square feet	355.00
3501—4000 square feet	400.00
4001—4500 square feet	440.00
4501—5000 square feet	485.00
Greater than 5000 square feet	485.00
plus \$47.00 each 500 square feet, or fraction thereof, in excess of 5000	

square feet.

- (2) Garages, sheds, decks and porches.

	Fee
0—250 square feet	\$50.00
250—600 square feet	75.00
600—1500 square feet	100.00
over 1500 square feet same as new base fee	

- (3) For the alteration or repair of any building or structure; the construction or erection of piers, bulkheads, towers, swimming pools or pool systems; the installation of fire alarm systems; the installation of security or energy systems; the installation of site illumination; the removal of asbestos; and any other additions or alterations to these or similar structures or systems. (Fee is based on current value of all service, labor and materials.)

\$0.00—1000.00	\$50.00
1001.00—5000.00	75.00
Greater than \$5000.00 value:	95.00
plus \$35.00 for each \$5000.00,	
or fraction thereof, of value	
in excess of \$5000.00	

- (4) For the installation or erection of a manufactured (mobile) home, industrialized building unit, or moveable structure, the fee is \$75.00.
- (5) For the placing of tents greater than 900 square feet and an occupant load of greater than 50 persons, the fee is:
- Fee for each tent inspection \$75.00
 - Annual tent permit \$200.00
- (6) For the demolition or razing of any building or structure serviced by Virginia Power and/or Virginia Natural Gas the fee is \$50.00.
- (7) For the removal and placement of an existing building or structure, in part or in whole, from one location to another new location, whether or not the new location is on the same lot or parcel of land the fee is \$85.00.
- (8) For the installation of fencing for swimming pools and around hazardous material, be it wood, metal, masonry, or another material, the fee is \$50.00.
- (9) For construction not covered by any of the above, the permit fee shall be assessed and collected at the rate of one percent (1%) of the retail value or current market value of the work being done, provided that the minimum permit fee shall be \$50.00.

- (b) *Plumbing Permits.* A plumbing permit shall be required for any work which includes but is not limited to the installation or alteration of plumbing fixtures or water supply systems, and connections to any building drain, public or private sanitary sewage system or manufactured (mobile) home hook up.

- (1) New residential R-3 and R-4 and R-5 use groups, per dwelling unit - \$87.00 (Gas not included)
- (2) Additions R-3 and R-4 and R-5 use groups per dwelling unit - \$50.00.
- (3) New commercial (including additions) - \$87.00 plus \$21.00 for each additional bathroom group (sink, toilet and/or tub).

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- (4) Alterations and repairs (all use groups) per dwelling unit or bathroom group - \$50.00.
- (5) Water, sewer - \$50.00 plus \$25.00 if a septic tank is abandoned.
- (6) Gas Permit Fees:
 Gas Distribution Systems (Natural/LP) Base Fee: \$25.00
 Each additional outlet \$ 8.00
- LP Gas Tanks:
 0-500 Gallon \$35.00 per tank
 501 Gallons and over \$45.00 per tank
- (7) For plumbing permits not covered by any of the above, the permit fee shall be assessed and collected at the rate of one percent (1%) of the retail value or current market value of the work being done, provided that the minimum permit fee shall be \$50.00.

FIRE PROTECTION FEES:

- (8) Fire-suppression/sprinkler systems for buildings:

<i>Value</i>	<i>Fee</i>
\$0.00 - 1000.00	\$45.00
1001.00 - 2000.00	60.00
Greater than \$2000.00 value:	75.00
plus \$15.00 for each additional \$500.00	
or fraction thereof of value in excess	
of \$2000.00	

Fire Pumps	\$75.00 per pump
Standpipe System	\$40.00 per riser
Kitchen Systems	\$40.00 per hood

- (c) *Electrical Permits.* An electrical permit shall be required for the following types and classes of activities. Fees for said permits shall be as indicated.
- (1) New residential (R-3 and R-4 and R-5 use group) fee is \$87.00 per dwelling unit.
- (2) Commercial fee is \$87.00. Greater than two hundred (200) amperes, the fee is \$87.00 plus \$21.00 for each additional fifty (50) amperes or fraction thereof in excess of two hundred (200) amperes.
- (3) Increasing the size of electrical service the fee is \$60.00. Greater than four hundred (400) amperes the fee is \$60.00 plus \$21.00 for each additional fifty (50) amperes or fraction thereof in excess of four hundred (400) amperes.
- (4) For the addition or alteration of electrical fixtures or outlets in existing buildings or structures (provided however, that no outlet fee shall be assessed where a service upgrade is involved) the fee is \$50.00.
- (5) For the connection or reconnection of electrical service to a manufactured home, trailer or an industrialized building unit, the fee is \$50.00.
- (6) Temporary service fee is \$50.00.
- (7) For electrical permits not covered by any of the above, the permit fee shall be assessed and collected at the rate of one percent (1%) of the retail value or current market value of the work being done, provided that the minimum permit fee shall be \$50.00.

- (d) **Mechanical Permits.** A Mechanical permit shall be required for the following types and classes of activities. Fees for said permits shall be as indicated.

- (1) For the installation, replacement, repair or alteration of mechanical systems or equipment, or freestanding fireplaces, solid fuel stoves, and other mechanical installations or alterations.

- a. New residential (R-3 and R-4 and R-5 use groups) fee is \$87.00 per dwelling unit (Gas not included).
- b. Alterations, repairs, additions (R-3 and R-4 and R-5 use groups) fee is \$50.00 per dwelling unit.
- c. New commercial fee, including additions to existing systems:

	<u>Fee</u>
Heat Pumps/AC/Furnace/Boiler:	
Up to 5 ton or 100K BTU	\$87.00 per unit
Each additional ton or 50K BTU	\$ 8.00
Air Handling Unit	\$50.00 per unit
Exhaust Fans/Air Distribution Boxes	\$50.00 per unit
Fire Damper	\$10.00 per damper
Refrigeration Units	\$40.00 per unit
Burner Conversion	\$40.00
Pumps (Circulation)	\$35.00 per unit
Fuel Dispensing Pump	\$40.00 per unit
Fuel Dispensing Piping	\$40.00 per line

- d. Alterations and repairs (commercial) fee is \$60.00.

- e. Prefab fireplaces fee is \$50.00.

- (2) Storage tanks for liquids - installation, removal or replacement per tank:

	<u>Fee</u>
0--550 gallon	\$50.00
over 550 gallon	120.00

- (3) Fee for kitchen hood (Including Duct and Fan)
- | | |
|-----------------------------------|------------------|
| Type I (Grease and other hazards) | \$75.00 per hood |
| Type II (Heat, Dishwasher) | \$50.00 per hood |

- (4) New elevators, dumbwaiters, moving stairs and walks, man-lifts, hoisting or conveying equipment the fee is \$125.00 for each one installed.

The owner/contractor shall be responsible for obtaining the permits and paying the requisite fee, and shall have the inspection performed by a certified individual in the presence of a county inspector.

- (5) Gas Permit Fees:
- | | | |
|---------------------------------------|-----------|---------|
| Gas Distribution Systems (Natural/LP) | Base Fee: | \$25.00 |
| Each additional outlet | | \$ 8.00 |

LP Gas Tanks:	
0-500 Gallon	\$35.00 per tank
501 Gallons and over	\$45.00 per tank

- (6) For mechanical permits not covered by any of the above, the permit fee shall be assessed and collected at the rate of one percent (1%) of the retail value or current market value of the work being done, provided that the minimum permit fee shall be \$50.00.

- (e) *Sign Permits.* A sign permit shall be required for the erection, relocation or structural alteration of all signs. No sign permit shall be issued unless and until a certificate of zoning compliance, as required by this Code, has been obtained from the zoning administrator. The fee for such permits shall be as follows:

- (1) For erection and/or relocation of signs, the fee shall be \$ 50.00 plus an amount based on the total square footage of all faces of the sign, as follows:

<u>Area of Sign Faces</u>	<u>Additional Fee</u>
0—50 square feet	\$ 25.00
51—100 square feet	35.00
101—300 square feet	45.00
Over 300 square feet	55.00

- (2) For structural alterations the fee shall be \$50.00 plus the applicable amount from the above table matching the increase, if any, in sign area.

- (3) In addition to the permits for material installation, if the sign is illuminated an electrical permit shall be required.

- (f) *Miscellaneous permits:*

- (1) In addition to the permits for the installation of material, all elevators, dumb-waiters, moving stairways and man lifts shall be subject to an annual operating permit and inspection as required by the USBC. The owners/operators of establishments having such facilities shall be responsible for obtaining the permits, and for paying the requisite fee, at least thirty (30) days prior to the expiration of the then-in-effect annual permit. The applicant shall have the inspection performed by a certified individual in the presence of a county inspector and shall submit the inspection report to the building code official not later than thirty (30) days after the inspection has been conducted. In addition, all of the above shall be subject to the three- or five-year maintenance inspections required by the USBC.

a. Fee for annual inspection - \$50.00

b. Fee for maintenance inspection - \$63.00

- (2) In addition to the permits for material installation, all amusement devices and rides shall be subject to an annual permit and inspection, as required in the Amusement Device Regulations of the USBC, prior to each seasonal opening. The owner/operator of an establishment having such facilities shall be responsible for obtaining the permit and for paying the requisite fee, at least thirty (30) days prior to the expiration of the then-in-effect annual permit. In addition, all of the above shall be subject to the operation inspection as required in the Amusement Device Regulation of the USBC.

a. Fee for each ride for the annual inspection - \$45.00

b. Fee for the operation inspection for the entire park or facility - \$200.00

- (3) A permit and inspection shall be required for rides that consist principally of portable devices temporarily situated at a site, and as defined in the Virginia Amusement Device Regulations, as amended.

	<u>Fee</u>
Kiddie rides	\$15.00
Major Rides	25.00
Spectacular Rides	45.00

- (4) A permit and inspections shall be required for any land disturbing activity in conjunction with the construction of a single family residence: Fee: \$50.00

(g) *One Point Seventy Five Percent (1.75%) Levy.*

In addition to the fees prescribed in sections 7.1-8 (a through f), an additional fee equal to one point seventy five percent (1.75%) of the total permit fee shall be paid as prescribed in section 110.1 of the USBC.

(h) Additional Fees.

- (1) Whenever work is begun prior to the issuance of the required permits, the fee shall be doubled; however, such increase in fee shall not exceed \$150.00.

(2) Certificate of Occupancy

a.	change of building use	\$50.00
b.	temporary residential	50.00
c.	temporary commercial	75.00
d.	day care inspection	50.00
e.	Adult Home inspection	50.00

Sec. 7.1-9. General requirements and procedures.

- (a) *By whom applications are made; transferability.* Applications for permits shall be made by the owner or lessee of the building or agent of either, or by the licensed professional engineer, architect, contractor or subcontractor, or their respective agents, employed in connection with the proposed work. Prior to the issuance of the permit, the applicant shall furnish evidence either of a license issued in accordance with chapter 11 of Title 54.1 of the Code of Virginia or acceptable evidence that the applicant is exempt from the provision of this chapter. Once issued, permits shall not be transferable to another owner, lessee or professional.
- (b) *Application to be accompanied by plats and other documentation.* Applications for permits shall be accompanied by a plat plan showing, to scale, the size and location of all proposed new construction, distances from lot lines, the established street grades and the proposed finished grade consistent with the approved development plan and location of private and public easements and rights-of-way. Construction within easements and rights-of-way shall be prohibited unless the applicant provides evidence that the owner or beneficiary of the easement or right-of-way has authorized the construction.
- (c) *When permit becomes invalid; extensions of time.* Any permit issued shall become invalid if work on the site authorized by the permit is not commenced within six (6) months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six (6) months after the time of commencing the work, the failure to complete enough work to schedule an inspection during any six-month period may be grounds for finding that work has been abandoned or suspended; however, permits issued for building equipment such as plumbing, electrical and mechanical work shall not become invalid if the building permit is still in effect. Upon written request, and for good cause shown, the building code official may grant one (1) or more extensions of time not to exceed six (6) months per extension. The fee shall be \$50.00 per extension.
- (d) *Plan examination fee.* Where plans bearing a licensed architect's or engineer's seal are required to be submitted pursuant to the standards set forth in section 54.1-402 et.seq., Code of Virginia, and in the case of plans for multi-family dwellings, and in other situations where the building code official deems it necessary to require the submission of plans bearing the seal of a licensed architect or engineer, a non-refundable plan examination fee of \$150.00 shall be charged. For all other building permits applied for that require a review a plan review fee of \$50.00 shall be paid at time of application. This plan review fee shall be applied towards the permit fee if building permit is issued

within 90 days from date of application. If permit is not issued by the aforementioned time frame, the plan review fee shall not be refunded nor applied towards a permit fee.

- (e) *Reinspection fee.* Whenever the building, electrical, plumbing or mechanical inspector is required to make a re-inspection of work because the permittee has requested an inspection before the work is ready for the inspection, or when the inspector cannot obtain reasonable and safe access to the work to be inspected, or address has not been posted on the construction site, there shall be a \$50.00 re-inspection fee. Such fee shall be charged to the holder of the permit covering the work and shall be paid to the county at the office of Building Regulation prior to the re-inspection of such work.
- (f) *Submission of detailed cost estimate.* Where the provisions of this section require the payment of a fee based on the current value of all service, labor and materials, the building code official may require that a detailed cost estimate be submitted for review and approval as a prerequisite to the issuance of a permit.
- (g) *Conditions constituting basis for refunding of permit fee.* The building code official may authorize the refunding of any permit fee paid pursuant to this chapter upon application by the person who paid such fee, under the following conditions:
 - (1) If an applicant requests in writing the cancellation of a permit prior to the start of construction or to requesting any inspections, the permit fees, less a service charge of \$30.00 and a plan review fee of \$50.00, if applicable, shall be refunded.
 - (2) If an applicant requests in writing the cancellation of a permit after the work authorized by the permit has begun and inspections have been made, the permit fees, less a \$30.00 service charge, a \$50.00 charge for each inspection made and a \$50.00 plans review fee, if applicable, shall be refunded.
 - (3) The above provisions notwithstanding, no refund shall be made if six (6) months have expired since the issuance of the permit(s).

Sec. 7.1-10. Permit and fee exemptions.

- (a) Where the owner of any premises is the United States of America or the county, the payment of any permit fees, inspection fees or plan review fees established in sections 7.1-8 and 7.1-9 shall not be required.
- (b) Where the owner of any premises is an instrumentality of government, other than the United States of America or the county, an administrative processing fee of \$150.00 is required. The plan review shall be in accordance with Section 111.5.3.1, and the inspections shall be performed in accordance with Section 115.8.1 of the USBC.
- (c) Minor construction, as identified herein, shall be exempt from the building permit requirements of section 7.1-8. Such exemptions shall not, however, have the effect of waiving any setback or other dimensional requirements of the York County Zoning Ordinance. Exempted minor construction shall include:
 - (1) The erection of garden or utility sheds used for storage purposes not serviced by electricity and not exceeding one hundred-fifty (150) square feet gross floor area; the erection of a prefabricated wading pool less than two (2) feet in depth and not connected to utility lines; or the erection of a detached building designed as a children's playhouse having a gross floor area of less than one hundred-fifty (150) square feet, not exceeding a height of eight (8) feet, and located at grade level in the rear yard of a single family dwelling.
 - (2) Painting.
 - (3) Replacement of roof coverings in Group R3, R-4 and R-5 structures.

- (4) Replacement of windows and doors within Group R-2 four stories or less and Groups R-3, R-4 and R-5.
 - (5) Replacement of floor coverings and porch flooring within Group R-2 four stories or less and Groups R-3, R-4 and R-5.
 - (6) Repairs to plaster, interior tile work, and other wall coverings in all occupancies.
 - (7) Cabinets installed in all occupancies.
 - (8) Tents and air supported structures of 900 square feet or less with an occupant load of 50 or less persons.
 - (9) Electric water heater replacement in Group R-2 four stories or less and Groups R-3, R-4 and R-5.
 - (10) Replacement of electrical switches, outlets, light fixtures and ceiling fans in Group R-2 four stories or less and Groups R-3, R-4 and R-5.
- (d) The erection of temporary tents, canopies or other types of fabric enclosures and associated electrical or mechanical installations by or for the benefit of charitable organizations to which the county is authorized to contribute shall be exempt from the permit and inspection fees required by this chapter. Such installations shall, however, be subject to all applicable technical and safety standards of this chapter as well as all applicable requirements of the county zoning ordinance.

Sec. 7.1-11. Inspections.

- (a) The building code official shall prescribe such inspections and surveys as may be necessary to secure compliance with the USBC, the Virginia Industrialized Building Unit and Manufactured Home Safety Law and Regulations, and such other regulations as shall properly fall within the enforcement responsibility of the office of the building code official. Such inspections shall include but are not limited to:
- (1) The bottom of footing trenches after all reinforcement steel is set and before any concrete is placed.
 - (2) Beams, floor joists, vents and anchor bolts before any subfloor is laid.
 - (3) Structural framing and fastenings, prior to covering with concealing materials.
 - (4) All electrical, mechanical and plumbing materials, equipment and systems prior to concealment.
 - (5) Required insulating materials before covering with any materials.
 - (6) Upon completion of the building, and before issuance of the certificate of occupancy, a final building inspection shall be made to ensure that any violations have been corrected and all work conforms with the USBC.
 - (7) Where the construction cost is less than \$2,500.00, the inspection shall be permitted, at the discretion of the building code official, to be waived.
- (b) It shall be the responsibility of the permit holder or the permit holder's representative to notify the office of building regulation when the stages of construction are reached that require an inspection.
- (c) The building code official may, upon probable cause that a building code violation exists, inspect buildings and structures, whether permanent or temporary, after their completion and which are used to store hazardous materials or are occupied or to be used by twenty (20) or more persons who are employed, lodged, housed, assembled,

served, entertained or instructed therein, or the common areas of residential structures containing four (4) or more units, including buildings owned by the Commonwealth or by any political subdivisions, and the equipment therein, to ensure compliance with the building code. The building code official shall also coordinate all reports of inspections with those from the fire and health officials prior to the issuance of an occupancy permit. In making these inspections the building code official shall enforce the building regulations that were in effect at the time the building was constructed.

Sec. 7.1-12. Certificate of use and occupancy.

- (a) A building, structure, mechanism or assembly, or part thereof, subject to the USBC when erected or installed shall not be used, occupied, operated or considered complete until a certificate of use and occupancy has been issued by the building code official.
- (b) No certificate of occupancy shall be issued until a certification by a licensed surveyor is presented to the building code official validating that the final established lot elevations and grades are consistent with the approved development plan and the plat plan submitted with the building permit application.
- (c) A temporary certificate of occupancy may be issued at the discretion of the building code official and where such use or occupancy will not create an unsafe, unusable, or unhealthy condition. The owner or contractor shall execute a surety agreement with the building code official and provide a bond or cash surety in the amount of any unfinished work or certifications needed to obtain the final Certificate of Occupancy, in accordance with Section 10-14 Erosion and Sediment Control, Code of the County of York.

ARTICLE III. SUPPLEMENTAL REGULATIONS

Sec. 7.1-13. Connections to electric or gas supply.

- (a) It shall be unlawful for any public utility company providing electric or gas service in the county to make or permit to be made any connections with its electrical or gas supply lines to any building, unless such electrical or gas piping installation in such building has been inspected and approved by the county.
- (b) In case of fire, natural disaster or other emergency, the building code official or his/her authorized representative, or any officer of the sheriff's department or the division of fire and rescue services, shall have the authority to order the applicable public utility company to physically sever its electric or gas supply lines to any building or premises.
- (c) It shall be the duty of the public utility company to disconnect any building or premises from its electrical or gas supply lines upon an order issued under the provisions of this section. It shall be the further duty of such company to have a competent employee on duty at all times who shall promptly proceed to physically sever electrical or gas services upon issuance of such an order.

Sec. 7.1-14. Provisions For Maintaining a Clean Building Construction Site.

The permit holder and property owner shall be responsible for removing construction debris on a daily basis or providing at every building construction site a dumpster or a screened area to deposit the construction debris. The construction debris deposited in either a dumpster or screened area shall be removed on an as needed basis during the construction process or period.

Sec. 7.1-15. Provisions for water and sewage.

- (a) No permit shall be issued for the erection or construction of any new building or structure requiring wastewater disposal unless the owner of such property provides evidence

to the satisfaction of the building code official that the premises has a permit for connection to the facilities of the county or that other facilities for sewage disposal, meeting all applicable requirements of this Code and the Virginia Department of Health, can and will be provided.

- (b) No permit shall be issued for the erection or construction of an addition to an existing building that is connected to a septic system when the proposed structure would be within five (5) feet of the septic tank and eight (8) feet of the drain field, measured horizontally.
- (c) Where health department approval of a septic system is made subject to conditions, the building code official shall require evidence of the recordation of such conditions in the office of the clerk of the circuit court prior to the issuance of a building permit. No building permit shall be issued for any construction, which would infringe on any septic system drainfield area designated pursuant to the terms of this Code and/or by requirement of the health department.
- (d) No permit shall be issued for the erection or construction of a building or structure that is to be serviced by a private ground water well as its primary source of potable water until the owner of such property provides evidence to the building code official from the Virginia Department of Health or from certified laboratories that the water has been tested and approved in accordance with existing federal and state water quality standards.

Sec. 7.1-16. Unsafe buildings, walls or structures; repair, removal.

- (a) Pursuant to the terms of section 15.2-906, Code of Virginia, as it may be amended from time to time, the owners of property in the county shall, at such time or times as the building code official may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the county.
- (b) The building code official through his own agents or employees may remove, repair or secure any building, wall or any other structure which may endanger the public health or safety of other residents of the county when the owner and lien holder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure said building, wall or other structure. For the purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice shall include a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published in a newspaper once a week for two successive weeks having general circulation in the county. No action shall be taken to remove, repair or secure any building, wall or other structure for at least thirty days following the later of the return of the receipt or newspaper publication.
- (c) In the event the building code official, through his own agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the county as taxes and levies are collected.
- (d) Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property, ranking on a parity with liens for unpaid local taxes and enforceable in the manner as provided in Articles 3 (§58.1-3940, et. seq.) and 4 (§58.1-3965, et. seq.) of Chapter 39, of Title 58.1, Code of Virginia. The Board of Supervisors may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

Sec. 7.1-17. Expansive Type Soil.

- (a) Soil testing shall be performed by a qualified individual, who shall: (1) determine the number of borings required; (2) provide a report of the soil test results; (3) provide recommendations for foundation design. As an acceptable alternative, tests which were completed at the subdivision stage of development that have sufficient data to indicate that no additional testing is required on the building site for the building construction, may be accepted. When test results indicate the presence of expansive soil at the building site, the foundation for the proposed structure shall be designed by a registered design professional prior to any building permit being issued.
- (b) Additions to existing buildings that will not exceed 30% of the existing footprint area, and decks, shall not require a soil test.
- (c) The requirements for soil testing for non-habitable accessory structures not exceeding 600 square feet may be waived at the discretion of the building code official.

Secs. 7.1-18 — 7.1-26. Reserved.

ARTICLE IV. BOARD OF BUILDING CODE APPEALS**Sec. 7.1-27. Purpose/Procedure.**

- (a) The owner of a building or structure or his authorized agent, or any other person, firm or corporation directly involved in the design and/or construction of a building or structure, may appeal to the Board of Building Code Appeals within ninety (90) days from a decision of the building code official when it is claimed that:
 - (1) The building code official has refused to grant a modification which complies with the intent of the provisions of the USBC or the IPMC;
 - (2) The true intent of the USBC or the IPMC has been incorrectly interpreted;
 - (3) The provisions of the USBC or the IPMC, as the case may be, do not fully apply; or
 - (4) The use of a form of construction that is equal to or better than that specified in the USBC has been denied.
- (b) All applications to the board shall be in writing on such forms as may be prescribed by the building code official.
- (c) Each application shall be accompanied by a non-refundable fee of \$250.00.

On roll call the vote was:

Yea: (5) Bowman, Burgett, Zaremba, Noll, Shepperd
Nay: (0)

Meeting Recessed. At 9:38 p.m. Chairman Shepperd declared a short recess.

Meeting Reconvened. At 9:46 p.m. the meeting was reconvened in open session by order of the Chair.

APPLICATION NO. ZM-86-04, KEENER'S AUTO PARTS, INC.

Mr. Carter gave a presentation on proposed Application No. ZM-86-04 to reclassify approximately 2.2 acres of land located on the east side of Commonwealth Drive across from its intersection with Regal Way in the City of Newport News from Limited Industrial (IL) to General Business (GB).

Mrs. Noll asked about the unusual line between IL and GB.

Mr. Carter explained it was done by virtue of the ownership of the parcel. At the time the property was rezoned IL in 1985, it was zoned the same as the remainder of the Keener's land holdings.

Mrs. Noll expressed concern that the applicant may want to come back later and change the designation for the area.

Mr. Burgett asked why the applicant did not apply for a conditional zoning permit if they wanted to build a hotel.

Mr. Bill Sears, 532 Kerry Lake Drive, Newport News, representing of the applicant, explained the applicant has a contract on the property to build a hotel. He stated they did not propose a conditional zoning in the event the proposed hotel fell through so they could locate another buyer. He explained they also had interest from a potential buyer to purchase the whole triangle-shaped piece of property. He encouraged the Board to rezone the property General Business so the applicant can move forward with a major plan that York County can realize a great income tax base from in the lower part of the County.

Mrs. Noll stated she did not want to rezone land in bits and pieces.

Mr. Zaremba asked for assurance that the owner intended on building a hotel or motel.

Mr. Sears stated the motel was on its way to being developed on the property, but that if it did not materialize, he had the opportunity to put a commercial type of business on the location.

Chairman Shepperd called to order a public hearing on Application ZM-86-04 which was duly advertised as required by law. Proposed Ordinance 04-20 is entitled:

AN ORDINANCE TO RECLASSIFY APPROXIMATELY 2.2 ACRES
ON THE EAST SIDE OF COMMONWEALTH DRIVE (ROUTE 1839)
FROM IL (LIMITED INDUSTRIAL) TO GB (GENERAL BUSINESS)

There being no one else present who wished to speak concerning the subject application, Chairman Shepperd closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance 04-20 that reads:

AN ORDINANCE TO RECLASSIFY APPROXIMATELY 2.2 ACRES
ON THE EAST SIDE OF COMMONWEALTH DRIVE (ROUTE 1839)
FROM IL (LIMITED INDUSTRIAL) TO GB (GENERAL BUSINESS)

WHEREAS, Keener's Auto Parts, Inc. has submitted Application No. ZM-86-04, which requests to amend the York County Zoning Map by reclassifying a 2.2-acre parcel on the east side of Commonwealth Drive (Route 1839), further identified as Assessor's Parcel No. 36-23, from IL (Limited Industrial) to GB (General Business); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

July 13, 2004

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 13th day of July, 2004, that Application No. ZM-86-04 be, and it is hereby, approved to amend the York County Zoning Map by reclassifying a 2.2-acre parcel on the east side of Commonwealth Drive (Route 1839), further identified as Assessor's Parcel No. 36-23, from IL (Limited Industrial) to GB (General Business).

On roll call the vote was:

Yea: (5) Burgett, Zaremba, Noll, Bowman, Shepperd
Nay: (0)

APPLICATION NO. UP-637-04, STEPHANIE S. FROYEN

Mr. Carter gave a presentation on Application No. UP-637-04 to approve a special use permit authorizing a beauty shop as a home occupation within a single-family detached dwelling on a .40-acre parcel of land located at 602 Lake Dale Way. He stated that the Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R04-105.

Chairman Shepperd called to order a public hearing on application UP-637-04 which was duly advertised as required by law. Proposed Resolution R04-105 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A BEAUTY SHOP AS A HOME OCCUPATION AT 602 LAKE DALE WAY

There being no one present who wished to speak concerning the subject Resolution, Chairman Shepperd closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R04-105 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A BEAUTY SHOP AS A HOME OCCUPATION AT 602 LAKE DALE WAY

WHEREAS, Stephanie S. Froyen has submitted Application No. UP-637-04 requesting a Special Use Permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to authorize a beauty shop as a home occupation within a single-family detached dwelling on a 0.40-acre parcel of land located at 602 Lake Dale Way (Route 1753) and further identified as Assessor's Parcel No. 37-(25)-9-157; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 13th day of July, 2004, that Application No. UP-637-04 be, and is hereby, approved to authorize a Special Use Permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to establish a beauty shop as a home occupation within a single-family detached

dwelling on a 0.40-acre parcel of land located at 602 Lake Dale Way and further identified as Assessor's Parcel No. 37-(25)-9-157, subject to the following conditions:

1. This use permit shall authorize the establishment of a one (1)-chair beauty shop as a home occupation within a single-family detached dwelling on a 0.40-acre parcel of land located at 602 Lake Dale Way and further identified as Assessor's Parcel No. 37-(25)-9-157.
2. The conduct of such home occupation shall be limited to approximately 63 square feet, which is shown on the house sketch plan filed with the application.
3. The home occupation shall be conducted in accordance with the provisions of Sections 24.1-281 and 24.1-283(b) of the York County Zoning Ordinance, except as modified herein.
4. No person other than individuals residing on the premises shall be engaged on the premises in the home occupation.
5. The days and hours of operation shall be limited to Tuesday and Thursday from 9:00 AM to 5:00 PM.
6. No more than one (1) customer at any one time shall be served within the applicant's home.
7. Retail sales on the premises shall be limited to incidental sales of shampoo and other hair care products.
8. No signs or other forms of on-premises advertisement or business identification visible from outside the home shall be permitted.
9. In accordance with the terms of the Zoning Ordinance, a minimum of two (2) off-street parking spaces shall be provided on the premises to accommodate customers. These spaces shall be in addition to the two (2) spaces that are otherwise required for the single-family residence.
10. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Burgett, Shepperd
Nay: (0)

APPLICATION NO. UP-638-04, MIKE PICKETT

Mr. Carter gave a presentation on Application No. UP-638-04 to approve a special use permit authorizing the establishment of a detached accessory apartment in conjunction with a single-family dwelling located at 209 Jara Lane. He stated that the Planning Commission's vote was tied; therefore, they were unable to give a recommendation.

Mr. Burgett asked why this request was not originally included when the plan was submitted.

Mr. Carter stated it should have been a part of the original review during construction, but it was not. The applicant is coming back now to ask for permission to plumb in a shower.

Mr. Burgett stated he wanted to make it clear that the Board has nothing to do with the covenants and restrictions for the Greenlands, but the Board can determine if an accessory apartment can be granted.

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Mr. Bowman asked how they could enforce the restrictions against accessory apartments.

Chairman Shepperd explained it is usually done through neighbors notifying the County.

Mr. Carter explained that a person is required to secure a plumbing permit in order to add a fixture. He further explained that the applicant could finish the garage with only a sink and a toilet, but would need a special use permit and a plumbing permit to plumb out the tub or shower.

Mr. Bowman expressed concern over policing the accessory apartments that could be put into place without a permit. He agreed that Mr. Pickett should have come forward earlier and stated his intentions.

Mr. Zaremba noted there was a request from the applicant's attorney asking that the application be deferred to a later meeting. He stated the attorney for the homeowners' association had indicated this proposal for an accessory apartment was a violation of the homeowner's association regulations, and that no application had been made to the association for the accessory garage or apartment. The attorney also indicated if there had been an application, it would have been denied. Mr. Zaremba stated he would have a hard time approving this request and would not want to pit a group of homeowners against an individual by approving the application.

Mr. Carter explained that at the time of the Planning Commission's meeting, no paperwork had been filed with the homeowner's association asking permission to do what has been done. Since that time, the paperwork has been filed with the association. He further explained it is a dilemma that the County has in any situation where there are covenants.

Mrs. Noll expressed her agreement with Mr. Carter and stated the process has not been followed. She stated she felt the applicant was trying to circumvent the process, and she suggested staff make sure applicants have followed correct procedures before the Board wastes its time.

Chairman Shepperd pointed out that each homeowner's association could be different in its procedures for approval.

Mr. Svein Lassen, representing the applicant, stated he wrote the letter requesting the application not be heard this evening precisely for the reasons the Board just discussed. He stated at the Planning Commission's hearing, the entire discussion was on whether or not the application had been approved by the homeowner's association. He stated the plans were filed subsequent to the meeting, with no response from the architectural review committee at this time.

Mr. Zaremba asked about the extent of the construction up to this point and if the Board should defer the application.

Mr. Lassen reported that the exterior was essentially complete, and the plumbing fixtures would be installed pending the granting of the special use permit.

Mr. Zaremba pointed out that the County has experienced these types of requests after the fact, when they should have been applied for in the beginning.

Mr. Burgett asked why the applicant, as described by Mr. Lassen, who is a Class-A builder, would not apply for a special use permit before the building was built.

Mr. Lassen stated initially it was planned that the area be a bathroom with a sink and a toilet.

Discussion ensued concerning the application process for special use permits.

Chairman Shepperd called to order a public hearing on application UP-638-04 which was duly advertised as required by law. Proposed Resolution R04-106 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A DETACHED ACCESSORY APARTMENT AT 209 JARA LANE

Mr. Dustin DeVore, Kaufman & Canoles, attorney for the Greenland's Homeowners' Association, discussed in general the homeowners' association's rules for applying for additions or structures. He stated his office represents approximately 40 associations, with every one of the requiring association's approval to build an addition or additional structures. He expressed the association's opposition to the large-sized structure. He stated the applicant was one of the original developers of this area, and he should have known he needed to submit an application.

Mr. Rob Anderson, 407 Blevins Run, member of the Board of Directors of the homeowners association, stated his opposition to the application and requested that the Board deny the request. He read a letter from a neighbor indicating her experience with the homeowners' association when requesting approval for the installation of a fence on her property, who also recommends denial of the application.

Mr. Tom Palmer, 100 Quincy Court, stated that as a builder the applicant should have been very aware of the covenants of the Greenlands and that all homes should be single dwellings, with no external or accessory apartments. He stated that after the applicant built his home, he thought that the covenants did not apply to him. He stated the builder constructed a detached garage without approval which is in violation of the covenants. He then added a covered porch without approval. Mr. Palmer encouraged denial of the application.

There being no one else present who wished to speak concerning the subject application, Chairman Shepperd closed the public hearing.

Chairman Shepperd stated the Board has constantly had to look at these types of things which lead to them adjusting the guidelines. He expressed his frustration with after-the-fact applications and how the Board had previously warned others to seek permits beforehand. He explained that these neighborhoods are zoned specifically for a certain size home and a certain size group of families. He touched on how builders and developers created homeowners' associations and used them as a marketing tool, when they are the ones most likely to violate the covenants. He stated he found it hard to believe that a builder did not understand what could or could not be done in a homeowners association where they are building and selling their product. He stated he did not support a delay in this application, and did not support the application.

Mrs. Noll explained that most of the accessory apartments the Board has approved have been on larger lots with acreage so that families could stay with each other. She feels that this application involves a home in a neighborhood that would be infringed upon by this addition. She stated that she could not support the application.

Mr. Bowman stated he has a problem with the after-the-fact idea. He stated this was not a proposed building, but an actual structure already in place. He stated it was almost completed, and it could probably be inhabited with just a few minor modifications. He noted he agreed that a Class A builder would know the rules and procedures. He stated he did not feel that the application should be deferred, and he would not support the application.

Mrs. Noll then moved the adoption of proposed Resolution R04-106 that reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A DETACHED ACCESSORY APARTMENT AT 209 JARA LANE

WHEREAS, Mike Pickett has submitted Application No. UP-638-04, which requests a Special Use Permit, pursuant to Section 24.1-407(b) (Category 1, No. 3) of the York County Zoning Ordinance, to authorize an accessory apartment in an existing detached structure on property located at 209 Jara Lane and further identified as Assessor's Parcel No. 37-112B-81; and

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WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission, with one member absent, was unable by virtue of a tied vote (3:3) to adopt the motion made to recommend approval and no further motions were made for action on the application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application and has determined that the proposed use is consistent with County regulations and will not adversely impact the surrounding properties;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 13th day of July, 2004, that Application No. UP-638-04 be, and it is hereby, approved to authorize a Special Use Permit for the establishment of a detached accessory apartment located on property at 209 Jara Lane subject to the following conditions:

1. This use permit shall authorize a detached accessory apartment in conjunction with a single-family detached dwelling to be contained on the second floor of an existing two-story detached garage on property located at 209 Jara Lane and further identified as Assessor's Parcel No. 37-112B-81.
2. The apartment shall be contained within the existing structure located at the south corner of the subject property as indicated on the plat titled "Plat of the Property of J. Michael Pickett, Lot 81, The Greenlands," dated 2/21/03 and revised to 10/08/03, prepared by A.D. Potts & Associates. Building plans in substantial conformance with the floor plans submitted by the applicant and received by the Planning Division on May 11, 2004 shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the issuance of a building permit for the accessory apartment.
3. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
4. Habitable floor area of the accessory apartment unit shall not contain in excess of 700 square feet.
5. The accessory apartment unit shall contain no more than one (1) bedroom.
6. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
7. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.
8. In accordance with Section 24.1-407(k) of the County Zoning Ordinance, prior to issuance of a building permit for the accessory apartment, the applicant shall be responsible for recording a deed restriction document with the Clerk of the Circuit Court stipulating that the subject accessory apartment will be used, occupied and maintained in accordance with standards and restrictions set forth in Section 24.1-407 of said Ordinance. A Court-certified copy of the document shall be submitted to the County at the time of building permit application.
9. Issuance of this Special Use Permit does not supersede any legally recorded restrictive covenants that may apply to the subject property, nor does it relieve the applicant and/or property owner of any obligation to secure approvals that may be required by a homeowners' association in accordance with said covenants.

10. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call the vote was:

Yea: (0)

Nay: (5) Noll, Bowman, Burgett, Zaremba, Shepperd

MATTERS PRESENTED BY THE BOARD (continued)

Chairman Shepperd spoke about the York County Chamber of Commerce "After Hours" program, stating he is impressed with the momentum of how it has gone from the York County Business Association to the York County Chamber of Commerce and encouraged other County businesses to join. Although July 4th was rained out, Chairman Shepperd praised the volunteers for their services. He announced that the James Weldon Johnson School would celebrate its 50th anniversary in August. Chairman Shepperd noted he would be absent during the August 3 Regular Meeting.

CONSENT CALENDAR

Chairman Shepperd questioned proposed Resolution R04-99 concerning the Virginia Cooperative Extension Office and asked if this was a new position or the addition of a 4H agent.

Mrs. Anne Smith, Director of Community Services, stated it was \$30,000 less than approved but was a little more than was spent of what was approved because the state had not funded its share of the 4H position, so the County did not pay for a 4H position. She stated work as required personnel were used at Community Services providing support for those functions.

Discussion ensued over the costs and the state paying its share.

Mrs. Smith pointed out that the position is cooperatively funded, and the County pays its share only if the other funded positions are actually committed.

Chairman Shepperd asked if a position was being added.

Mr. McReynolds explained that two years ago, a position was funded; last year it was eliminated; this year it is being reinstated.

In reference to Item No. 10, Mr. Bowman urged the Board adopt the resolution to alleviate the hazardous entrance and exit to Rainbrook Villas.

Mr. Zaremba asked about the invitation to bid for the shoreline erosion control and pier improvements contained in Item No. 12. He pointed out there was only one bidder on this \$6 million dollar contract, and he shared concerns that there was only one responsive bidder at that price. He asked what the estimated cost was and how far off the mark the project was.

Mr. Hudgins explained that this type of construction is very specialized. Staff contacted a number of construction firms that perform this type of work requesting bid submissions. He stated that during the pre-bid conference, a number of bidders came, in addition to the only bidder on the project. Staff later learned there were a number of large construction projects going on in the area, thereby preventing contractors from submitting bids. The bidder has completed other shoreline work in the area, and he explained that the bid was below the engineering estimate.

Chairman Shepperd referenced the Moore's Creek project and the approval of \$1 million for the project. He asked about this addition to the project and if staff will need to come back again for more money.

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Mr. Hudgins explained that Moore's Creek would be well over \$1 million. He discussed design fees, the environmental conditions, and permitting agencies that regulate these types of projects.

Chairman Shepperd stated the Board needs to know what this project will cost. He stated staff might need to return to the Board with figures.

Mr. McReynolds pointed out that until the design is complete, staff will not know what is being priced out.

Mrs. Noll then moved that the Consent Calendar be approved as submitted, Item Nos. 7, 8, 9, 10, 11, 12, 13, 14 and 15, respectively

On roll call the vote was:

Yea: (5) Bowman, Burgett, Zaremba, Noll, Shepperd
Nay: (0)

Item No. 7. APPROVAL OF MINUTES

The following minutes were approved and resolutions adopted:

June 1, 2004, Regular Meeting
June 15, 2004, Regular Meeting

Item No. 8. VIRGINIA COOPERATIVE EXTENSION: Resolution R04-99.

A RESOLUTION TO AUTHORIZE THE EXECUTION OF AN
AGREEMENT TO PROVIDE FOR THE OPERATION OF THE VIR-
GINIA COOPERATIVE EXTENSION OFFICE FOR FY2005

WHEREAS, Virginia Cooperative Extension has maintained an office to provide service to York County citizens under a cost-sharing agreement which has been in effect since 1983; and

WHEREAS, the Board of Supervisors authorized funding for this activity in the FY2005 approved budget sufficient to continue participation in this program and to provide an adequate level of service to the citizens of York County.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 13th day of July, 2004, that the County Administrator be, and he is hereby, authorized to execute for and on behalf of the Board, a Memorandum of Understanding with Virginia Cooperative Extension, including any necessary amendments thereto, that has been approved as to form by the County Attorney and which is substantially in the same form as that which was transmitted to the Board by report of the County Administrator dated June 28, 2004 for the provision of Virginia Cooperative Extension within the County.

Item No. 9. REQUEST FOR BANK FRANCHISE TAX REFUND - SOUTH TRUST BANK: Resolution R04-116.

A RESOLUTION TO AUTHORIZE PAYMENT OF A REFUND OF
BANK FRANCHISE TAX TO SOUTH TRUST BANK

WHEREAS, York County Code § 21-7.3 requires approval from the Board of Supervisors for the payment of any refund of taxes, penalties and interest in excess of \$2,500.00; and

WHEREAS, South Trust Bank has made application to the Commissioner of the Revenue for a refund of bank franchise tax it erroneously paid in 2002; and

WHEREAS, the Request for Tax Refund has been approved and recommended by the Commissioner of the Revenue, the Treasurer, and the County Attorney.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 13th day of July, 2004, that the Treasurer is authorized to refund bank franchise tax in the amount of \$3,262.00 to South Trust Bank.

Item No. 10. GRAFTON DRIVE - BURTS ROAD CONNECTOR: Resolution R04-111.

A RESOLUTION TO AUTHORIZE LAND ACQUISITION TO FACILITATE IMPLEMENTATION OF THE GRAFTON DRIVE-BURTS ROAD IMPROVEMENT PROJECT PROPOSED IN THE SIX-YEAR SECONDARY ROADS IMPROVEMENT PROGRAM

WHEREAS, the FY 2005-2010 Six-year Secondary Road Improvement Program adopted by the York County Board of Supervisors includes a proposed project to connect Grafton Drive and Burts Road, thus providing a parallel travelway to Route 17 in the Grafton area; and

WHEREAS, the Board has identified an opportunity and need to acquire land for the public purpose of providing a portion of the right-of-way necessary to accommodate this future road improvement;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 13th day of July, 2004, that the County Administrator be, and hereby is, authorized to execute a land purchase agreement with Wave Properties, Inc., approved as to form by the County Attorney, for the acquisition of Assessor's Parcel Nos. 29-22 and 29-23 for a purchase price of \$350,000 (Three Hundred Fifty Thousand Dollars) plus closing costs, and to execute a land exchange agreement with John G. Martin Co., L.L.C., approved as to form by the County Attorney, to exchange said parcels for a yet to be subdivided portion (approximately 1.1 acres in size) of Assessor's Parcel No. 29-17 and a cash payment to the County of \$25,000, both agreements being more fully described in the County Administrator's report to the Board dated July 1, 2004;

BE IT FURTHER RESOLVED that the County Administrator be, and hereby is, authorized to do all other things necessary to complete the purchase and conveyance of the parcels described above, including the scheduling of any necessary public hearings and further Board actions;

BE IT STILL FURTHER RESOLVED that the County Attorney be, and hereby is, authorized and directed to cause all necessary documents to be recorded by the Clerk of the Circuit Court of York County; to obtain owner's title insurance coverage and to do all other things necessary to obtain the authorized insurance.

Item No. 11. EMPLOYEE OF THE QUARTER: Resolution R04-110.

A RESOLUTION TO COMMEND MARIE M. WALLEN IN THE DEPARTMENT OF ENVIRONMENTAL AND DEVELOPMENT SERVICES AS EMPLOYEE OF THE QUARTER

WHEREAS, Marie M. Wallen has been employed with the County since August of 1994 and currently holds the position of Administrative Assistant III in the Department of Environmental and Development Services; and

WHEREAS, Ms. Wallen regularly and willingly performs duties well beyond her normal responsibilities and directly organizes and participates in activities that facilitate good morale and a sense of esprit-de-corps in the Department of Environmental and Development Services; and

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WHEREAS, during Hurricane Isabel Ms. Wallen was instrumental in assisting staff with the compilation of information needed for County reports and budgetary submissions and with helping citizens resolve service related issues, all of which reflected positively on the entire department; and

WHEREAS, Ms. Wallen assisted the clean up efforts in the aftermath of Hurricane Isabel by donning her boots and work clothes and spending two 12 hours days in the field validating debris hauler loads to support the hurricane recovery efforts; and

WHEREAS, Ms. Wallen also provides administrative support to the Stormwater Advisory Committee and has spent numerous hours planning, scheduling and providing logistical support for various meetings and projects and received a letter of appreciation from the Committee Chairman commending her for her efforts on their behalf; and

WHEREAS, Ms. Wallen's exemplary performance and dedication make her a peak performer and an invaluable employee who continues to strive for excellence and who is an inspiration to others, as and is therefore, recommended for Employee of the Quarter;

NOW THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 13th day of July, 2004, that Marie M. Wallen, Administrative Assistant III be, and is hereby, congratulated upon her selection as Employee of the Quarter for the quarter ended March 31, 2004.

Item No. 12. PURCHASE RESOLUTION: Resolution R04-109.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A CONTRACT TO CONSTRUCT SHORELINE EROSION CONTROL AND PIER IMPROVEMENTS AT THE YORKTOWN WATERFRONT AND A CHANGE ORDER TO THE MOORE'S CREEK DRAINAGE IMPROVEMENTS PROJECT

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurement is necessary and desirable, that it involves the expenditure of \$30,000 or more, and that all applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 13th day of July, 2004, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

	<u>AMOUNT</u>
Shoreline Erosion Control and Pier Construction	\$ 5,848,510
Moore's Creek Drainage Improvements (Phase I)	84,320
Change Order	

Item No. 13. TAX REFUND: Resolution R04-108.

A RESOLUTION TO AUTHORIZE PAYMENT OF A REFUND OF REAL ESTATE TAX TO WILLIAMSBURG COMMUNITY HOSPITAL, INC.

WHEREAS, York County Code § 21-7.3 requires approval from the Board of Supervisors for the payment of any refund of taxes, penalties and interest in excess of \$2,500.00; and

WHEREAS, Williamsburg Community Hospital, Inc. is a nonprofit hospital and pursuant to Code of Virginia § 58.1-3606 (A) (5) is exempt from the payment of real property taxes; and

WHEREAS, Williamsburg Community Hospital has made application to the Commissioner of the Revenue for a refund of real property tax it erroneously paid in 2003; and

WHEREAS, the Request for Tax Refund has been approved and recommended by the Commissioner of the Revenue, the Treasurer, and the County Attorney.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 13th of July, 2004, that the Treasurer is authorized to refund to Williamsburg Community Hospital, Inc. real property taxes in the amount of \$84,595.70, plus accrued interest in the amount of \$3,772.20, for a total refund of \$88,367.90

Item No. 14. PUBLIC SEWER AGREEMENT: Resolution R04-112.

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY'S SANITARY SEWER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS THE OAKS AT FENTON MILL, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER EXTENSION AGREEMENT

WHEREAS, Rauch Development Company, LLC, has requested that the County enter into a public sewer extension agreement pursuant to § 18.1-53 (b) of the York County Code to serve eighty-two new residential lots; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public sewer facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing sewer system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 18.1 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be \$188,600.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 13th day of July, 2004, that the Board approves the extension of the County's public sewer system to serve the proposed development, The Oaks At Fenton Mill, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension agreement with Rauch Development Company, LLC, for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 15. PUBLIC WATER AGREEMENT: Resolution R04-113.

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY'S WATER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS THE OAKS AT FENTON MILL, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER EXTENSION AGREEMENT

WHEREAS, Rauch Development Company, LLC, has requested that the County enter into a public water extension agreement pursuant to § 22-88 (b) of the York County Code to serve eighty-two new residential lots; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

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WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public water facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing water system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 22 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be \$151,700.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 13th day of July, 2004, that the Board approves the extension of the County's public water system to serve the proposed development, The Oaks At Fenton Mill, and that the County Administrator be, and he hereby is, authorized to execute a public water extension agreement with Rauch Development Company, LLC, for the proposed extension; such agreement to be approved as to form by the County Attorney.

CLOSED MEETING. At 11:12 p.m. Mr. Burgett moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to the appointments of individuals to Boards and Commissions.

On roll call the vote was:

Yea: (5) Burgett, Zaremba, Noll, Bowman, Shepperd
Nay: (0)

Meeting Reconvened. At 11:30 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT REGARDING MEETING IN CLOSED SESSION

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 13th day of July, 2004, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Burgett, Shepperd
Nay: (0)

APPOINTMENT TO THE YORK COUNTY ARTS COMMISSION

Mrs. Noll moved the adoption of proposed Resolution R04-98 that reads:

A RESOLUTION TO REAPPOINT REPRESENTATIVES TO THE
YORK COUNTY ARTS COMMISSION

BE IT RESOLVED by the York County Board of Supervisors this 13th day of July, 2004, that P. Gregory McCarthy and Kathleen M. Hebert be, and they are hereby, reappointed to the York County Arts Commission for a term of three years, such term August 1, 2004 and end July 31, 2007.

On roll call the vote was:

Yea: (5) Noll, Bowman, Burgett, Zaremba, Shepperd
Nay: (0)

APPOINTMENT TO THE YORK COUNTY HISTORICAL COMMITTEE

Mrs. Noll moved the adoption of proposed Resolution R04-114 that reads:

A RESOLUTION TO APPOINT MEMBERS TO THE YORK COUNTY
HISTORICAL COMMITTEE

BE IT RESOLVED by the York County Board of Supervisors this 13th day of July, 2004, that Paige R. Archer, Robert T. Neely, and Kathleen Manley be, and they are hereby, appointed to the York County Historical Committee.

On roll call the vote was:

Yea: (5) Bowman, Burgett, Zaremba, Noll, Shepperd
Nay: (0)

APPOINTMENT TO THE SENIOR CENTER OF YORK BOARD

Mr. Zaremba moved the adoption of proposed Resolution R04-115 that reads:

A RESOLUTION TO APPOINT A REPRESENTATIVE TO THE SEN-
IOR CENTER OF YORK BOARD

WHEREAS, the resignation of Mr. Herman Haferkamp and Mr. John E. Dunning creates two vacancies on the Senior Center of York Board;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 13th day of July, 2004, that Walter Zaremba be, and is hereby, appointed to the Senior Center of York Board to fill one of the unexpired terms to begin immediately and expire June 30, 2005.

On roll call the vote was:

Yea: (5) Burgett, Zaremba, Bowman, Noll, Shepperd
Nay: (0)

APPOINTMENT TO THE HAMPTON ROADS PLANNING DISTRICT COMMISSION

Mr. Shepperd moved the adoption of proposed Resolution R04-117 which reads:

A RESOLUTION TO APPOINT THE CHIEF ADMINISTRATIVE OF-
FICER OF YORK COUNTY TO THE HAMPTON ROADS PLANNING
DISTRICT COMMISSION

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BE IT RESOLVED by the York County Board of Supervisors this the 13th day of July, 2004, that James O. McReynolds, York County Administrator, be, and he is hereby, appointed to the Hampton Roads Planning District Commission for a term of two years, such term to begin July 1, 2004, and expire June 30, 2006.

On roll call the vote was:

Yea: (5) Zaremba, Bowman, Noll, Burgett, Shepperd
Nay: (0)

Meeting Adjourned. At 11:32 p.m. Mr. Shepperd declared that the meeting be adjourned sine die.


James O. McReynolds, Clerk
York County Board of Supervisors


Thomas G. Shepperd, Jr., Chairman
York County Board of Supervisors